

**Chapter 514 as it will look following HB 1263**

514.011 Definitions. – As used in this chapter:

- (1) “Department” means the Department of Health.
- (2) “Public swimming pool” or “public pool” means a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.
- (3) “Private pool” means a facility used only by an individual, family, or living unit members and their guests which does not serve any type of cooperative housing or joint tenancy of five or more living units.
- (4) “Public bathing place” means a body of water, natural or modified by humans, for swimming, diving, and recreational bathing used by consent of the owner or owners and held out to the public by any person or public body, irrespective of whether a fee is charged for the use thereof. The bathing water areas of public bathing places include, but are not limited to, lakes, ponds, rivers, streams, artificial impoundments, and waters along the coastal and intracoastal beaches and shores of the state.

(5) “Portable pool” means a pool or spa, and related equipment systems of any kind, which is designed or intended to be movable from location to location.

514.0115 Exemptions from supervision or regulation; variances.—

(1) Private pools and water therapy facilities connected with facilities connected with hospitals, medical doctors’ offices, and licensed physical therapy establishments shall be exempt from supervision under this chapter.

(2)(a) Pools serving no more than 32 condominium or cooperative units which are not operated as a public lodging establishment shall be exempt from supervision under this chapter, except for water quality.

(b) Pools serving condominium or cooperative associations of more than 32 units and whose recorded documents prohibit the rental or sublease of the units for periods of less than 60 days are exempt from supervision under this chapter, except that the condominium or cooperative owner or association must file applications with the department and obtain construction plans approval and receive an initial operating permit. The department shall inspect the swimming pools at such places annually, at the fee set forth in s. 514.033(3), or upon request by a unit owner, to determine compliance with department rules relating to water quality and lifesaving equipment. The department may not require compliance with rules relating to swimming pool lifeguard standards.

(3) A private pool used for instructional purposes in swimming shall not be regulated as a public pool.

(4) Any pool serving a residential child care agency registered and exempt from licensure pursuant to s. 409.176 shall be exempt from supervision or regulation under this

chapter related to construction standards if the pool is used exclusively by the facility's residents and if admission may not be gained by the public.

(5) The department may grant variances from any rule adopted under this chapter pursuant to procedures adopted by department rule.

514.021 Department authorization. –

(1) The department may adopt and enforce rules to protect the health, safety, or welfare of persons by setting sanitation and safety standards for public swimming pools and public bathing places. The department shall review and revise such rules as necessary, but not less than biennially. Sanitation and safety standards shall be limited to matters relating to source of water supply; microbiological, chemical, and physical quality of water in the pool or bathing area; method of water purification, treatment, and disinfection; lifesaving apparatus; and measures to ensure safety of bathers.

(2) The department may not establish by rule any regulation governing the design, alteration, modification, or repair of public swimming pools and bathing places which has no impact on sanitation and safety of persons using public swimming pools and bathing places. Further, the department may not adopt by rule any regulation governing the construction, erection, or demolition of public swimming pools and bathing places. It is the intent of the Legislature to preempt those functions to the Florida Building Commission through adoption and maintenance of the Florida Building Code. The department shall provide technical assistance to the commission in updating the construction standards of the Florida Building Code which govern public swimming pools. This subsection does not abrogate the authority of the department to adopt and enforce appropriate sanitary regulations and requirements as authorized in subsection (1).

514.023 Sampling of beach waters and public bathing places; health advisories. –

- (1) As used in this section, the term “beach waters” means the waters along the coastal and intracoastal beaches and shores of the state, and includes salt water and brackish water.
- (2) The department may adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of the state. The rules must establish health standards and prescribe procedures and timeframes for bacteriological sampling of beach waters and public bathing places.
- (3) The department may issue health advisories if the quality of beach waters or a public bathing place fails to meet standards established by the department. The issuance of health advisories related to the results of bacteriological sampling of beach waters is preempted to the state.
- (4) When the department issues a health advisory against swimming in beach waters or a public bathing place on the basis of finding elevated levels of fecal coliform, *Escherichia coli*, or enterococci bacteria in a water sample, the department shall concurrently notify the municipality or county in which the affected beach waters are located, whichever has jurisdiction, and the local office of the Department of Environmental Protection, of the advisory. The local office of the Department of Environmental Protection shall promptly investigate wastewater treatment facilities within 1 mile of the affected beach waters or public bathing place to determine if a facility experienced an incident that may have contributed to the contamination and provide the results of the investigation in writing or by electronic means to the municipality or county, as applicable.

514.0231      Advisory committee to oversee sampling of beach waters.—The Department of Health shall form an interagency technical advisory committee to oversee the performance of the study required in s. 514.023 and to advise it in rulemaking pertaining to standards for public bathing places along the coastal and intracoastal beaches and shores of the state. Membership on the committee shall consist of equal numbers of staff of the Department of Health and the Department of Environmental Protection with expertise in the subject matter of the study. Members shall be appointed by the State Surgeon General and the Secretary of Environmental Protection. The committee shall be chaired by a representative from the Department of Health.

514.025      Assignment of authority to county health departments. —

(1)      The department shall assign to county health departments that are staffed with qualified engineering personnel the functions of reviewing applications and plans for the construction, development, or modification of public swimming pools or bathing places; of conducting inspections; and of issuing all permits. If the county health department determines that qualified staff are not available, the department shall be responsible for such functions.

(2)      County health departments are responsible for routine surveillance of water quality in all public swimming pools and bathing places, including routine inspections, complaint investigations, enforcement procedures and operating permits.

(3)      The department may assign the responsibilities and functions specified in this section to any multicounty independent special district created by the Legislature to perform multiple functions, to include municipal services and improvements, to the same extent and under the same conditions as provided in subsections (1) and (2), upon request of the special district.

514.028 Advisory review board.—

(1) The Governor shall appoint an advisory review board which shall meet as necessary or at least quarterly, to recommend agency action on variance request, rule and policy development, and other technical review problems. The board shall be comprised of:

- (a) A representative from the office of licensure and certification of the department.
- (b) A representative from the county health departments.
- (c) Three representatives from the swimming pool construction industry.
- (d) A representative from the public lodging industry.
- (e) A representative from a county or local building department.

(2) The purpose of the advisory review board is to promote better relations, understanding, and cooperation between such industries and the department; to review and make recommendations regarding department product approval standards; to suggest means of better protecting the health, welfare, or safety of persons using the services offered by such industries; and to give the department the benefit of the knowledge and experience of the board concerning the industries and individual businesses affected by the laws and rules administered by the department.

(3) Members shall be reimbursed for travel expenses incurred in connection with service on the advisory review board pursuant to s. 112.061.

514.03 Approval necessary to construct, develop, or modify public swimming pools or public bathing places.—

Local governments or local enforcement districts may determine compliance with the general construction standards of the Florida Building Code, pursuant to s. 553.80. Local governments or

local enforcement districts may conduct plan reviews and inspections of public swimming pools and public bathing places for this purpose.

514.031 Permit necessary to operate public swimming pool. –

(1) It is unlawful for any person or public body to operate or continue to operate any public swimming pool without a valid permit from the department, such permit to be obtained in the following manner:

(a) Any person or public body desiring to operate any public swimming pool shall file an application for a permit with the department, on application forms provided by the department, and shall accompany such application with:

1. Description of the source or sources of water supply, and the amount and quality of water available and intended to be used.
2. Method and manner of water purification, treatment, disinfection, and heating.
3. Safety equipment and standards to be used.
4. Any other pertinent information deemed necessary by the department.

(b) If the department determines that the public swimming pool is or may reasonably be expected to be operated in compliance with this chapter and the rules adopted hereunder, the department shall grant the application for permit.

(c) If the department determines that the public swimming pool does not meet the provisions outlined in this chapter or the rules adopted hereunder, the department shall deny the application for a permit pursuant to the provisions of chapter 120. Such denial shall be in writing and shall list the circumstances for the denial. Upon correction of such circumstances, an applicant previously denied permission to operate a public swimming pool or bathing place may reapply for a permit.

(2) Operating permit shall not be required for coastal or intracoastal beaches.

(3) Operating permits may be transferred from one name or owner to another. When the ownership or name of an existing public swimming pool is changed and such establishment is operating at the time of the change with a valid permit from the department, the new owner of the establishment shall apply to the department, upon forms provided by the department, within 30 days after such a change.

(4) Each such operating permit shall be renewed annually and the permit must be posted in a conspicuous place.

(5) An owner or operator of a public swimming pool, including, but not limited to, a spa, wading, or special purpose pool, to which admittance is obtained by membership for a fee shall post in a prominent location within the facility the most recent pool inspection report issued by the department pertaining to the health and safety conditions of such facility. The report shall be legible and readily accessible to members or potential members. The department shall adopt rules to enforce this subsection. A portable pool may not be used as a public pool.

514.0315 Required safety features for public swimming pools and spas.—

(1) A public swimming pool or spa must be equipped with an anti-entrapment system or device that complies with American Society of Mechanical Engineers/American National Standards Institute standard A112.19.8, or any successor standard.

(2) A public swimming pool or spa built before January 1, 1993, with a single main drain other than an unblockable drain must be equipped with at least one of the following features that complies with any American Society of Mechanical Engineers, American National Standards Institute, American<sup>1</sup>Society for Testing and Materials, or other applicable consumer



product safety standard for such system or device and protects against evisceration and body-and-limb suction entrapment:

(a) A safety vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected and that has been tested by an independent third party and found to conform to American Society of Mechanical Engineers/American National Standards Institute standard A112.19.17, American <sup>1</sup>Society for Testing and Materials <sup>2</sup>standard F2387, or any successor standard.

(b) A suction-limiting vent system with a tamper-resistant atmospheric opening.

(c) A gravity drainage system that uses a collector tank.

(d) An automatic pump shut-off system.

(e) A device or system that disables the drain.

(3) The determination and selection of a feature under subsection (2) for a public swimming pool or spa constructed before January 1, 1993, is at the sole discretion of the owner or operator of the public swimming pool or spa. A licensed contractor described in s. 489.105(3)(j), (k), or (l) must install the feature.

514.033 Creation of fee schedules authorized. –

(1) The department is authorized to establish a schedule of fees to be charged by the department or by any authorized county health department as detailed in s. 514.025. Fees assessed under this chapter shall be in an amount sufficient to meet the cost of carrying out the provisions of this chapter.

(2) The fee schedule shall be: for original construction or development plan approval, not less than \$275 and not more than \$500; for modification of original construction, not less

than \$100 and not more than \$150; for an initial operating permit, not less than \$125 and not more than \$250; and for review of variance applications, not less than \$240 and not more than \$400. The department shall assess the minimum fees provided in this subsection until a fee schedule is promulgated by rule of the department.

(3) Fees shall be based on pool aggregate gallonage, which shall be: up to and including 25,000 gallons, not less than \$75 and not more than \$125; and in excess of 25,000 gallons, not less than \$160 and not more than \$265, except for a pool inspected pursuant to s. 514.0115(2)(b) for which the annual fee shall be \$50.

(4) Fees collected by the department in accordance with this chapter shall be deposited into the Grants and Donations Trust Fund or the County Health Department Trust Fund. Any fee collected under this chapter is nonrefundable.

(5) The department may not charge any fees for services provided under this chapter other than those fees authorized in this section. However, the department shall prorate the initial annual fee for an operating permit on a half-year basis.

514.04 Right of entry.—For the purpose of this chapter, department personnel at any reasonable time may enter upon any and all parts of the premises of such public swimming pools and bathing places to make an examination and investigation to determine the sanitary and safety conditions of such places.

514.05 Denial, suspension, or revocation of permit; administrative fines. –

(1) The department may deny an application for a permit, suspend or revoke a permit issued to any person or public body, or impose an administrative fine upon the failure of such person or public body to comply with the provisions of this chapter or the rules adopted hereunder.

(2) The department may impose an administrative fine, which shall not exceed \$500 for each violation, for the violation of this chapter or the rules adopted hereunder and for the violation of any of the provisions of chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

(3) In determining the amount of fine to be imposed, if any, for a violation, the following factors shall be considered:

(a) The gravity of the violation and the extent to which the provisions of the applicable statutes or rules were violated.

(b) Actions taken by the operator to correct violations.

(c) Any previous violations.

(4) All amounts collected pursuant to this section shall be deposited into the Grants and Donations Trust Fund or into the County Health Department Trust Fund, whichever is applicable.

(5) Under conditions specified by rule, the department may close a public pool that is not in compliance with this chapter or the rules adopted under this chapter.

514.06 Injunction to restrain violations. – Any public swimming pool or public bathing place presenting a significant risk to public health by failing to meet sanitation and safety standards established pursuant to this chapter is declared to be a public nuisance, dangerous to health or safety. Such nuisances may be abated or enjoined in an action brought by the county health department or the department.

514.071 Certification of swimming instructors and lifeguards required.—

(1) Any person working as a swimming instructor or lifeguard at a public swimming pool must be certified by the American Red Cross, the Y.M.C.A., or other nationally recognized aquatic training programs. Swimming instructors must be currently certified in swimming instruction, first aid, and cardiopulmonary resuscitation. Lifeguards must be currently certified in lifeguarding, first aid, and cardiopulmonary resuscitation.

(2) In addition to any other remedies available to the department, the department may sue to enjoin the operation of any public swimming pool that uses any swimming instructor or lifeguard in violation of subsection (1).

(3) The department shall adopt rules necessary to implement this section which shall include, but not be limited to, defining the terms “swimming instructor,” “lifeguard,” and “nationally recognized aquatic training program.”

514.072 Certification of swimming instructors for people who have developmental disabilities required.—Any person working at a swimming pool who holds himself or herself out as a swimming instructor specializing in training people who have developmental disabilities, as defined in s. 393.063(10), may be certified by the Dan Marino Foundation, Inc., in addition to being certified under s. 514.071. The Dan Marino Foundation, Inc., must develop certification requirements and a training curriculum for swimming instructors for people who have developmental disabilities and must submit the certification requirements to the Department of Health for review by January 1, 2007. A person certified under s. 514.071 before July 1, 2007, must meet the additional certification requirements of this section before January 1, 2008. A person certified under s. 514.071 on or after July 1, 2007, must meet the additional certification requirements of this section within 6 months after receiving certification under s. 514.071.

514.075 Public pool service technician; certification.—The department may require that a public pool, as defined in s. 514.011, be serviced by a person certified as a pool service technician. To be certified, an individual must demonstrate knowledge of public pools which includes, but is not limited to: pool cleaning; general pool maintenance; source of the water supply; bacteriological, chemical, and physical quality of water; and water purification, testing, treatment, and disinfection procedures. The department may, by rule, establish the requirement for the certification course and course approval. The department shall deem certified any individual who is certified by a course of national recognition or any person licensed under s. 489.105(3)(j), (k), or (l). This requirement does not apply to a person, or the direct employee of a person, permitted as a public pool operator under s. 514.031.